

accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee shall preclude the Executive Vice President, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines, except statutory deadlines, and other non-statutory requirements in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program.

(f) A representative of CCC may execute the FSA forms entitled "Direct and Counter-Cyclical Program Contract"; and "2002 Peanut Direct and Counter-Cyclical Program Contract" only under the terms and conditions determined and announced by the Executive Vice President, CCC. Any contract that is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by the Executive Vice President, CCC, is null and void and shall not be considered to be a contract between CCC and the operator or any other producer on the farm.

#### § 1412.103 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the DCP. The terms defined in part 718 of this title and part 1400 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section.

*Base acres* means the number of acres established with respect to a covered commodity on a farm by the election made by the owner of the farm in accordance with subpart B of this part.

*Base acres for peanuts* means the number of acres assigned to a farm by historic peanut producers in accordance with subpart G of this part.

*Contract* means the CCC-approved standard, uniform forms and appen-

dices specified by CCC which constitute the agreement for participation in the Direct and Counter-Cyclical Program, and the 2002 Peanut Direct and Counter-Cyclical Program.

*Counter-cyclical payment* means a payment made to eligible producers on a farm in accordance with subpart E of this part for covered commodities and peanuts and subpart G of this part for 2002 historic peanut producers.

*Covered commodity* means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds as determined by the Secretary.

*DCP cropland* means DCP cropland as defined in part 718 of this title.

*Deputy Administrator* means the Deputy Administrator for Farm Programs, FSA, or a designee.

*Direct payment* means a payment made to eligible producers on a farm for peanuts and covered commodities in accordance with subpart E and for 2002 historic peanut producers under subpart G.

*Dry peas* means Austrian, wrinkled seed, yellow, Umatilla, and green, excluding peas grown for the fresh, canning, or frozen market.

*Effective price* means the price calculated by the Secretary in accordance with § 1412.503 for covered commodities and peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

*Excess base acres* means the number of base acres established on the farm that exceeds the total 2002 Production Flexibility Contract acres on the farm established under the Federal Agriculture Improvement and Reform Act of 1996.

*Historic peanut producer* means a producer on a farm in the United States that planted or was prevented from planting peanuts during any or all of the 1998 through 2001 crop years.

*Marketing year* means the 12-month period beginning in the calendar year the crop is normally harvested as follows:

(1) Barley, oats, wheat, canola, flax, and rapeseed: June 1–May 31;

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(2) Upland cotton, peanuts, and rice: August 1–July 31; and

(3) Corn, grain sorghum, soybeans, sunflowers, safflower, and mustard: September 1–August 31.

*Other oilseeds* means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or, if determined and announced by CCC, another oilseed.

*Payment acres* means:

(1) For the 2002 crop year, 85 percent of the average acres determined in accordance with §1412.701 for a historic peanut producer.

(2) For the 2003 through 2007 crop years, 85 percent of the base acres for peanuts assigned to a farm in accordance with §1412.703.

(3) For the 2002 through 2007 crop years, 85 percent of the base acres of a covered commodity on a farm, as established in accordance with subpart B.

*Payment yield* means:

(1) For peanuts, the yield determined in accordance with §1412.702.

(2) For covered commodities, the yield established in accordance with subpart C for a farm for a covered commodity.

*Prevented planted* means, for the purpose of establishing base acres under §1412.201, the inability to plant a crop with proper equipment during the established planting period for the crop or commodity. A producer must prove that the producer intended to plant the crop and that such crop could not be planted due to a natural disaster rather than managerial decisions. The natural disaster that caused the prevented planting must have occurred during the established planting period for the crop.

*Target price* means, for peanuts, the price per ton; and for covered commodities, the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) used to determine the payment rate for counter-cyclical payments.

*Updated payment yield* means the payment yield of covered commodities, elected by the owner of a farm under §1412.303, to be used in calculating the counter-cyclical payments for the farm.

[67 FR 64751, Oct. 21, 2002, as amended at 68 FR 37939, June 26, 2003]

## § 1412.104 Appeals.

A producer may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at parts 11 and 780 of this title.

## Subpart B—Establishment of Base Acres for a Farm for Covered Commodities

SOURCE: 67 FR 64751, Oct. 21, 2002, unless otherwise noted.

## § 1412.201 Election of base acres.

(a) No later than April 1, 2003, owners on a farm may select one of the following methods to establish base acres for all covered commodities on the farm:

(1) Subject to the limitations in accordance with paragraph (d) of this section and §1412.204, the base acres for each covered commodity shall be equal to the sum of the following:

(i) For each covered commodity, the 4-year average of the acreage planted to the covered commodity during each of the 1998 through 2001 crop years for harvest, grazing, haying, silage, or other similar purposes, as determined by the Secretary, plus

(ii) For each covered commodity, the 4-year average of the acreage prevented from being planted to covered commodities during each of the 1998 through 2001 crop years, for reasons beyond the control of the producer, as determined by the Deputy Administrator.

(2) The sum of the following:

(i) For each covered commodity, the contract acreage used to calculate the fiscal year 2002 Production Flexibility Contract payment for the covered commodity on the farm in accordance with the regulations of this part in effect on January 1, 2002 (see 7 CFR part 1412 revised as of January 1, 2002), plus

(ii) Subject to paragraphs (b) and (c) of this section, the 4-year average of eligible oilseed acreage on the farm for the 1998 through 2001 crop years, as determined in a manner provided in paragraph (a)(1) of this section, except that the limitation in paragraph (d) of this section shall not apply.

(b) Subject to paragraph (c) of this section, the total acreage of soybeans